

Marshall that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

DEA received a signed receipt indicating that the Order to Show Cause was received on August 23, 1999. No request for a hearing or any other reply was received by the DEA from Dr. Marshall or anyone purporting to represent him in this matter. Therefore, the Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Marshall is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46. This final order replaces and supersedes the final order issued on January 3, 2000.

The Deputy Administrator finds that Dr. Marshall currently possesses DEA Certificate of Registration BM2648472 issued to him in Illinois. The Deputy Administrator further finds that on August 19, 1997, the State of Illinois, Department of Professional Regulation issued an order indefinitely suspending Dr. Marshall's license to practice podiatric medicine. Additionally, Dr. Marshall's state controlled substance license expired on January 31, 1999. Therefore, the Deputy Administrator concludes that Dr. Marshall is not currently licensed to handle controlled substances in Illinois.

The DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. See 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

Here is clear that Dr. Marshall is not currently authorized to handle controlled substances in the State of Illinois. As a result, Dr. Marshall is not entitled to a DEA registration in that state.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BM2648472, previously issued to Charles W. Marshall, D.P.M., be, and it hereby is, revoked. The Deputy Administrator further orders

that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective March 6, 2000, and is considered the final agency action for appellate purposes pursuant to 21 U.S.C. 877.

Dated: January 18, 2000.

Donnie R. Marshall,

Deputy Administrator.

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Melvin John Miller, M.D.; Revocation of Registration

On August 5, 1999, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Melvin John Miller, M.D. of Ellijay, Georgia, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration BM1167077 pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f), for reason that he is not currently authorized to handle controlled substances in the State of Georgia. The order also notified Dr. Miller that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

DEA received a signed receipt indicating that the Order to Show Cause was received on August 16, 1999. No request for a hearing or any other reply was received by the DEA from Dr. Miller or anyone purporting to represent him in this matter. Therefore, the Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Miller is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Deputy Administrator now enters his final order without a hearing pursuant to 21 C.F.R. 1301.43 (d) and (e) and 1301.46. This final order replaces and supersedes the final order issued on January 3, 2000.

The Deputy Administrator finds that Dr. Miller currently possesses DEA Certificate of Registration BM1167077 issued to him in Georgia. The Deputy Administrator further finds that on July 10, 1997, Dr. Miller entered into a Consent Order with the Composite State Board of Medical Examiners for the

State of Georgia wherein Dr. Miller agreed to the indefinite suspension of his medical license because he had "relapsed and returned to the use of chemicals for which he has no legitimate and/or medical need." There is no evidence in the record to indicate that this indefinite suspension is no longer in effect.

Therefore the Deputy Administrator concludes that Dr. Miller is not currently licensed to practice medicine in Georgia, and as a result, it is reasonable to infer that he is not currently authorized to handle controlled substances in that state. The DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. See 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

Here it is clear that Dr. Miller is not currently authorized to handle controlled substances in the State of Georgia. As a result, Dr. Miller is not entitled to a DEA registration in that state.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 C.F.R. 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BM1167077, previously issued to Melvin John Miller, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective March 6, 2000, and is considered the final agency action for appellate purposes pursuant to 21 U.S.C. 877.

Dated: January 18, 2000.

Donnie R. Marshall,

Deputy Administrator.

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